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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/529,851

03/31/2005

Katsumi Suemitsu

8022-1094

1541

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EXAMINER

VALENTINE, JAMI M

ART UNIT

PAPER NUMBER

2815

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DELIVERY MODE

05/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Priority

1. The certified English translation of the foreign application has been entered. The application has received the benefit of foreign priority under 35 U.S.C. 119(a)-(d)

Response to Arguments

2. Applicant argues (page 2) that the device of Gallagher is not a magnetic memory because the cited figure shows an interim step in the manufacturing process. The examiner respectfully disagrees. The argument is not persuasive because the intermediate device of Gallagher does comprise sufficient structure to function as a magnetic memory. Additionally, the recitation “a magnetic memory” occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

3. Applicant argues (page 3) that Gallagher element (90) is not a sidewall insulating film. This argument is not persuasive. The film (90) is located on the sidewalls of the device and is made from an insulating film. The fact that the applied prior art is an intermediate structure does not negate the fact that the structure meets the recited claim limitations.

Allowable Subject Matter

4. Claim 4 is allowed. Claims 8-9 and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMI M. VALENTINE whose telephone number is (571)272-9786. The examiner can normally be reached on Monday-Friday 9am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Parker can be reached on (571) 272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jerome Jackson Jr./
Primary Examiner, Art Unit 2815

/JMV/